

**COMMONWEALTH OF KENTUCKY
KENTUCKY BOARD OF TAX APPEALS
FILE NO. K04-S-117**

ENRIQUE ESPINOSA

APPELLANT

V.

FINAL ORDER K-19254

**JEFFERSON COUNTY PROPERTY
VALUATION ADMINISTRATOR**

APPELLEE

The Kentucky Board of Tax Appeals conducted a hearing in this matter on October 20, 2004. The Board has reviewed the record and makes the following findings of fact, conclusions of law and final disposition in compliance with the provisions of KRS 13B.120.

FINDINGS OF FACT

This assessment appeal is for real property located at 1602 Gardiner Lane, Unit #125, Louisville, Kentucky 40205. The Jefferson County Property Valuation Administrator assessed the property at \$144,050.00. The taxpayer or Appellant values the property at \$111,000.00. The Jefferson County Board of Assessment Appeals valued the property at \$144,050.00. The Appellants filed a timely appeal from the local board with the Kentucky Board of Tax Appeals.

The Appellant offered the following evidence in support of Appellant's appeal: Mr. Enrique Espinosa states the property was built in 1973 and is about 1,485 square feet. He states he has not performed any kind of renovation or repair to the unit. Mr. Espinosa

acknowledges the windows need replacement and the carpet is over ten years old. There was not an appraisal since an appraiser was not present. Mr. Espinosa states the unit is insured at a replacement value of \$125,584. Mr. Espinosa complains the units used for assessment by the Jefferson County PVA office were sales of four renovated condos. Mr. Espinoza believes the four lower sale condos sold recently in the area should be used as evidence. Mr. Espinoza brought pictures of the interior of his unit and price comparisons of other units in the unit's complex.

The PVA, Chris Bivins, argued the property was actually valued at \$144,050 in 2001. In 2003, Mr. Bivins claims Mr. Espinoza participated in a conference agreeing to a one-time reduction assessment to \$100,000.00 for his property in order to make repairs to the condominium. Mr. Espinoza did not provide any form of evidence to demonstrate repairs were performed. Mr. Bivins was emphatic the agreement for one year was "agreed upon". Mr. Bivins brought four sales comparisons in the same complex as Mr. Espinoza's unit. Mr. Bivins argues the sale price should be associated with \$96.66 per square foot with his evidence.

It is the finding of this hearing that the Appellant did not sustain his burden of proof regarding his challenge to the final order of the Jefferson County Board of Assessment Appeals.

Based upon the evidence in the record, it is the finding of this board, the Kentucky Board of Tax Appeals, the fair cash value of the property in question as of January 1, 2004 is \$144,050.00.

CONCLUSIONS OF LAW

The Kentucky Board of Tax Appeals is vested with exclusive jurisdiction to hear and determine appeals from final rulings, orders and determinations of the Jefferson County Board of Assessment Appeals pursuant to KRS 131.340(1).

The function of the Board is not simply to review the action of the Jefferson County Board of Assessment Appeals, but to try anew the issues as presented. *Jefferson County Property Valuation Administrator v. Oxford Properties, Inc.*, Ky.App., 726 S.W.2d 317, 319 (1987). See KRS 131.340(1).

Section 172 of the Kentucky Constitution mandates that “all property shall be assessed for taxation at its fair cash value, estimated at the price it would bring a fair voluntary sale.”

The choice of the most appropriate and reliable approach to valuation is within the prerogative of the Board. *Jefferson County Property Valuation Administrator*, 726 S.W.2d at 319.

Regardless of the manner or method used by the Property Valuation Administrator or the decision of the Kentucky Tax Board of Appeals, the finding of valuation must be at its fair cash value, estimated at the price it would bring at a fair voluntary sale. *Helman v. Kentucky Board of Tax Appeals*, Ky.App., 554 S.W.2d 889 (1977).

As the party proposing that the Kentucky Board of Tax Appeals set aside the decision of the Jefferson County Board of Assessment Appeals, the Appellants have the burden of proving a lower value. KRS 13B.090(7).

If the property is sold at or near the assessment date in a fair and voluntary sale, the sale price is usually the best evidence of the property's fair cash value. *Sears, Roebuck & Company v. Boone County Board of Assessment Appeals*, Ky.App., 715 S.W.2d 888, 889 (1986).

Based upon the facts as established in this hearing, the Kentucky Board of Tax Appeals concludes the fair cash value of the subject property as of January 1, 2004 is \$144,050.00.

FINAL ORDER

The July 23, 2004 final ruling of the Jefferson County Board of Assessment Appeals is to be upheld and the real property be assessed at a fair cash value of \$144,050.00 as of January 1, 2004.

The following information is provided pursuant to the final order requirements of KRS Chapter 13B:

This is a final and appealable order. All final orders of this agency shall be subject to judicial review in accordance with the provisions of KRS Chapter 13B. A party shall institute an appeal by filing a petition in the Circuit Court of venue, as provided in the agency's enabling statutes, within thirty (30) days after the final order of the agency is mailed or delivered by personal service. If venue for appeal is not stated in the enabling statutes, a party may appeal to Franklin Circuit Court or the Circuit Court of the county in which the appealing party resides or operates a place of business. Copies of the petition shall be served by the petitioner upon the agency and all parties of record. The petition shall include the names and addresses of all parties to the proceeding and the

agency involved, and a statement of the grounds on which the review is requested. The petition shall be accompanied by a copy of the final order.

A party may file a petition for judicial review only after the party has exhausted all administrative remedies available within the agency whose action is being challenged, and within any other agency authorized to exercise administrative review.

A petition for judicial review shall not automatically stay a final order pending the outcome of the review, unless:

- (a) An automatic stay is provided by statute upon appeal or at any point in the administrative proceedings;
- (b) A stay is permitted by the agency and granted upon request; or
- (c) A stay is ordered by the Circuit Court of jurisdiction upon petition.

Within twenty (20) days after service of the petition of appeal, or within further time allowed by the Circuit Court, the Kentucky Board of Tax Appeals shall transmit to the reviewing court the original or a certified copy of the official record of the proceeding under review in compliance with KRS 13B.140(3).

**DATE OF ORDER
AND MAILING: JANUARY 18, 2005**

FULL BOARD CONCURRING

**NANCY MITCHELL
CHAIR**

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